REMARKS

Claims 1-21 are pending in the present application. Claims 1, 2, 4-6, 9, 11, 13-15, 17, 19, and 21 are amended to correspond to the condition of the claims in the parent application at the time the continuing application was filed. Reconsideration of the claims is respectfully requested.

In the parent application, claims 1-21 were rejected under 35 U.S.C. § 103 as being unpatentable over Bandera et al. (US Patent No. 6,332,127) in view of Chamberlain et al. (US Patent No. 6,408,360).

Applicant submits that Bandera et al. fails to teach or suggest the features alleged in the Office Action. In addition, the Bandera patent and the instant application were, at the time of the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

> (c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Furthermore, MPEP 706.02(l()(1) states:

> The mere filing of a continuing application on or after November 29, 1999, with the required evidence of common ownership, will serve to exclude commonly owned 35 U.S.C. 103(e) prior art that was applied, or could have been applied, in a rejection under 35 U.S.C. 103 in the parent application.

The instant application, which is a continuation of U.S. Application No. 09/409,596, is being filed on or after November 29, 1999. The Bandera patent qualifies as prior art only under 35 U.S.C. § 102(e). And, the instant application and the Bandera patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the Bandera patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should not be maintained.

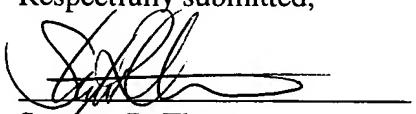
CONCLUSION

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Date: November 17, 2003

Respectfully submitted,



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